

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JOHN D. CUMMINGS, et al.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	1:21-cv-716
	)	
C.M. MORTON, et al.,	)	
	)	
Defendants.	)	

## ORDER

On September 28, 2022, the United States Magistrate Judge's Order and Recommendation ("Recommendation") was filed and notice was served on the parties pursuant to 28 U.S.C. § 636. (Docs. 8, 9.) No objections were filed within the time limits prescribed by Section 636.

While the analysis of the Magistrate Judge is compelling, Plaintiff did not receive the Recommendation and notice. (Docs. 8, 9.) However, this is the fault of Plaintiff for failing to notify the court of a change of address, see LR 11.1(b). Therefore, this court elects to dismiss this matter without prejudice, see id., instead of adopting the Recommendation

The record reflects that the Magistrate Judge's Recommendation and notice were served by mail to Plaintiff's last known address at 5524-G Tomahawk Drive, Greensboro, North

Carolina 27410, but returned as undeliverable as Plaintiff was no longer at that address. (See Docs. 9, 10.) This court has no obligation to locate Plaintiff to provide actual notice; instead, it is the duty of a litigant to keep this court informed of a current address. LR 11.1(b). Because Plaintiff has not provided the court with an address within 63 days of the date of the last return of mail, the court finds the case should be dismissed without prejudice for failure to prosecute. See LR 11.1(b) .

**IT IS THEREFORE ORDERED** that this action be **DISMISSED WITHOUT PREJUDICE** pursuant to Local Rule 11.1(b) for failure to prosecute. A Judgment dismissing this action will be entered contemporaneously with this Order.

This the 6th day of February, 2023.

William L. Osten, Jr.  
United States District Judge